

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

| | | |
|---------------------------------|---|--------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. |
| |) | |
| Plaintiff, |) | |
| |) | JUDGE |
| v. |) | |
| |) | |
| EIGHT (8) FIREARMS AND 1,354 |) | |
| ROUNDS OF AMMUNITION SEIZED ON |) | |
| MARCH 13, 2017, PURSUANT TO THE |) | |
| EXECUTION OF A SEARCH WARRANT, |) | |
| |) | |
| Defendants. |) | COMPLAINT IN FORFEITURE |

NOW COMES plaintiff, the United States of America, by David A. Sierleja, Acting United States Attorney for the Northern District of Ohio, and James L. Morford, Assistant U.S. Attorney, and files this Complaint in Forfeiture, respectfully alleging on information and belief the following:

JURISDICTION AND INTRODUCTION

1. This Court has subject matter jurisdiction over an action commenced by the United States under 28 U.S.C. Section 1345, and over an action for forfeiture under 28 U.S.C. Section 1355(a). This Court also has jurisdiction over this particular action under 18 U.S.C. Section 924(d)(1).

2. This Court has *in rem* jurisdiction over the defendant properties pursuant to: (i) 28 U.S.C. Section 1355(b)(1)(A) because acts giving rise to the forfeiture occurred in this district;

and, (ii) 28 U.S.C. Section 1355(b)(1)(B), incorporating 28 U.S.C. Section 1395, because the action accrued in this district and the defendant properties are found in this district.

3. Venue is proper in this district pursuant to: (i) 28 U.S.C. Section 1355(b)(1)(A) because acts giving rise to the forfeiture occurred in this district; and, (ii) 28 U.S.C. Section 1395 because the action accrued in this district and the defendant properties are found in this district.

4. This Court will have control over the defendant properties through service of an arrest warrant *in rem*, which the United States Marshals Service will execute upon the defendant properties. *See*, Supplemental Rule G(3)(b) and G(3)(c).

5. On March 13, 2017, the defendant properties were seized at the Sandy Lake Road, Ravenna (Rootstown Township), Ohio, residence of Seth Powers pursuant to the execution of a state search warrant.

6. The defendant properties are now in the custody of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

7. ATF commenced an administrative forfeiture proceeding against the defendant properties. A claim to the defendant properties was submitted in the administrative forfeiture proceeding by Julie Moore, the girlfriend of Seth Powers, thereby requiring the filing of the instant judicial forfeiture action.

8. The defendant properties are subject to forfeiture to the United States under 18 U.S.C. Section 924(d)(1) in that they were involved in or used in a knowing violation of 18 U.S.C. Section 922(g)(9).

9. Section 922(g)(9) makes it unlawful for any person who has been convicted in any court of a misdemeanor crime of domestic violence to possess, in or affecting commerce, any firearm or ammunition.

DESCRIPTION OF THE DEFENDANT PROPERTIES

10. The following properties are the defendant properties in the instant case. Each of the items was manufactured outside of the state of Ohio:

- a.) Bersa, model Thunder 45, .45 pistol, serial number A59814.
- b.) Keltec, model PF-9, 9mm pistol, serial number SP089.
- c.) Ruger, model SR-22, .22 pistol, serial number 365-33720.
- d.) Walther, model HK416D, .22 pistol, serial number WH013613.
- e.) Mossberg, model 500A, 12 gauge shotgun, serial number R657562.
- f.) Taurus, model Rossi, .22 rifle, serial number 5JS244294.
- g.) Taurus, model Rossi, .22 rifle, serial number 5JS244352.
- h.) Taurus, model Rossi, .22 rifle, serial number 5JS244203.
- i.) 7 rounds Hornady ammunition, 45 caliber.
- j.) 7 rounds other ammunition, 9 caliber.
- k.) 9 rounds Remington ammunition, 22 caliber.
- l.) 2 rounds assorted ammunition, 12 caliber.
- m.) 1050 rounds assorted ammunition, unknown caliber.
- n.) 279 rounds assorted ammunition, unknown caliber.

PRIOR DOMESTIC VIOLENCE CONVICTION

11. On or about June 17, 2005, Seth Powers was convicted of domestic violence (M1) in the Portage County, Ohio, Municipal Court, Case Number R05CRB1173.

FORFEITURE

12. On March 13, 2017, members of the Portage County Drug Task Force (PCDTF) received information about illegal drug activity occurring at the Sandy Lake Road, Ravenna,

Ohio, residence of Seth Powers. Julie Moore, the girlfriend of Powers, also lives at the residence. Particularly, the PCDTF received information that Powers and Moore had made two trips to Colorado to purchase marijuana.

13. Later on March 13, 2017, detectives from the PCDTF went to the Sandy Lake Road residence to speak with Powers and Moore. Powers was not present. The detectives asked Moore for consent to search the residence. Moore stated that she could not give consent because the residence belongs to Powers.

14. Moore called Powers and the PCDTF detectives spoke with him on the telephone. Powers stated that he wanted the detectives to get a warrant before going through the house. Powers went on to say that they did go to Colorado and they did buy marijuana.

15. At approximately 4:15 p.m. on March 13, 2017, detectives from the PCDTF obtained a search warrant from a judge of the Portage County Municipal Court.

16. During the execution of the search warrant at the Sandy Lake Road residence, the following items were recovered:

a.) The defendant firearms and ammunition were recovered from a gun safe located in the master bedroom. Powers' birth certificate and social security card(s) also were located in the gun safe.

b.) The following drug-related items also were recovered from the master bedroom:

- (i) seven mason jars containing marijuana.
- (ii) metal tin containing drug paraphernalia.
- (iii) silver marijuana grinder.
- (iv) two packages containing six THC "edibles".

- c.) The following drug-related items were recovered from the laundry room:
- (i) mason jar containing marijuana.
 - (ii) zip lock bag containing seven individual baggies of marijuana prepared for sale.

17. As alleged in paragraph 16(a), above, the defendant firearms and ammunition were recovered from the gun safe located in the master bedroom of the residence. Three of the firearms were loaded without a gun lock. At the time of the execution of the search warrant, the gun safe was unlocked and accessible to the children living at the residence.

18. On May 18, 2017, the defendant firearms were physically examined and determined to be “firearms” under 18 U.S.C. § 921(a)(3).

19. On June 7, 2017 – based upon the events of March 13, 2017, alleged in paragraphs 12-17, above – Seth Powers entered a guilty plea in the Portage County Court of Common Pleas, Case Number 2017-CR-227, to the charge of attempted trafficking in marijuana (felony 5), in violation of Ohio Revised Code § 2923.02.

20. On July 17, 2017, Powers was sentenced in Portage County Case Number 2017-CR-227. The Court found that Powers “is eligible for Intervention in Lieu of Conviction”, and notified him that “failure to complete [a treatment] program will result in being sentenced on the charges Defendant pled guilty to.” The Court further ordered, “that the firearms shall be forfeited and destroyed.”

21. On June 7, 2017 – based upon the events of March 13, 2017, alleged in paragraphs 12-17, above – Julie Moore entered a guilty plea in the Portage County Court of Common Pleas, Case Number 2017-CR-226, to the charge of attempted trafficking in marijuana (felony 5), in violation of Ohio Revised Code § 2923.02.

22. On July 17, 2017, Moore was sentenced in Portage County Case Number 2017-CR-226. The Court found that Moore “is eligible for Intervention in Lieu of Conviction”, and notified her that “failure to complete [a treatment] program will result in being sentenced on the charges Defendant pled guilty to.” The Court further ordered, “that the firearms shall be forfeited and destroyed.”

CONCLUSION

23. By reason of the foregoing, the defendant firearms and ammunition are subject to forfeiture to the United States under 18 U.S.C. § 924(d)(1) in that they were involved in or used in a knowing violation of 18 U.S.C. § 922(g)(9).

WHEREFORE, plaintiff, the United States of America, requests that the Court enter judgment condemning the defendant firearms and ammunition and forfeiting them to the United States, and providing that the defendant firearms and ammunition be delivered into the custody of the United States for disposition according to law, and for such other relief as this Court may deem proper.

Respectfully submitted,

David A. Sierleja
Acting United States Attorney, N.D. Ohio

By:



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VERIFICATION

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

I, James L. Morford, under penalty of perjury, depose and say that I am an Assistant United States Attorney for the Northern District of Ohio, and the attorney for the plaintiff in the within entitled action. The foregoing Complaint in Forfeiture is based upon information officially provided to me and, to my knowledge and belief, is true and correct.



James L. Morford (Ohio: 0005657)
Assistant United States Attorney, N.D. Ohio

Sworn to and subscribed in my presence this 26th day of July, 2017.



Notary Public



MELANIE KATE SANDS
Notary Public, State of Ohio
My Commission Expires May 6, 2020